

Explanation of New Agency Forms

The Commission has recently approved a New Agency Disclosure Statement as well as two Model Consumer Brochures that can be used by companies to explain the types of agency relationships that companies offer. This is an explanation that can be used by brokers to explain these new forms to their agents. The Commission will also be “rolling out” these new forms across the state in Louisville, Lexington, Northern Kentucky, Eastern Kentucky and Owensboro. Please attend one of these sessions, which will be approved for three (3) hours of law. The dates and times will soon be listed on our website. These new forms will not be required by law until the regulation is changed; however, these forms have been approved as alternate forms. If companies/brokers so choose, they may begin using these forms as of March 23, 2006.

The first document to be presented to the consumer will be the Consumer Brochure. Brokers may use these Model Brochures and add their own company logos and contact information to them. Brokers may print them in the form they choose – with color, in brochure form, *etc.* The agents must ask the consumer to sign the document, acknowledging receipt of it. However, if the consumer refuses to sign, there will not be a violation. Some brokers may want to do a tear-out that the consumer can sign so that the broker can keep a copy of the signed tear-out in the company’s official file. If a broker chooses not to do a company-specific form, then the broker may use the Commission’s model policy as its consumer brochure.

These brochures will be given out under the same timeframes as the old agency forms: 1.) before receiving confidential information from a consumer; 2.) before entering into a representation agreement or submitting an offer on behalf of a consumer; or 3.) before the end of the second contact with the consumer.

The Agency Disclosure Statements will be given to the consumer and signed at the time a buyer is making an offer and at the time a seller is reviewing that offer. There is one form to use with buyers and another form to use with sellers. By that time, the agents will already know who they are representing and in what capacity. Section I. deals with transactions involving agents from two different companies. The agent will simply write in the agent’s name, the broker’s name and the brokerage company’s name. The consumer will then sign the Consent section at the bottom of the page.

Section II. deals with transactions involving two agents in the same brokerage. The agent will check the box indicating whether there is designated agency or dual agency involved in the transaction. Under designated agency, the agent will write in the name of the agent representing the buyer and the name of the agent representing the seller. If dual agency is checked, then the agent will write in the names of both agents involved. If the agent has any business, family or personal relationship with the other party, then there is a line for the agent to explain those relationships. The consumer will then sign the Consent section at the bottom of the page.

Section III. deals with transactions involving only one real estate agent. The agent will write in the agent's name and the brokerage name and will then check the appropriate box. The first box indicates that dual agency is involved and that one agent will be representing both parties. If the agent has any business, family or personal relationship with one of the parties, there is a line for the agent to explain those relationships. The second box indicates that the agent represents one of the parties or none of the parties and the other party is unrepresented. This box would be checked in the case of a "for sale by owner" seller, an unrepresented buyer or in a transaction brokerage situation. The consumer will then sign the Consent section at the bottom of the page.

The back page is a detailed explanation of dual agency and designated agency. At the bottom is the Consent section where the consumers can sign to acknowledge receipt of the form.

Please feel free to call or e-mail the Legal Staff if you have any questions about these new forms.